

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

RAMON ALVARADO, JR.,

Plaintiff,

v.

Case No. 22-CV-1357

JOHN BIRDYSHAW, *et al.*,

Defendants.

ORDER

On May 10, 2023, the court screened *pro se* plaintiff Ramon Alvarado, Jr.'s complaint and allowed him to proceed on an Eighth Amendment excessive force claim against defendants John Birdyshaw, Brian Foster, and David Dingman. (ECF No. 16.) He was also allowed to proceed on an Eighth Amendment failure to intervene claim against John Bretzel, Dingman, Brandon Fisher, Jesse Jones, Andrew Lehman, Andrew Miller, and Thomas Nelson. Additionally, he was allowed to proceed on a First Amendment retaliation claim against all defendants except for Yana Pusch, who was dismissed.

On July 7, 2023, Alvarado filed a "Motion to amend the screening order or amend the complaint". (ECF No. 19.) In his motion, he notes that the court was silent on his state law claim of intentional infliction of emotional distress and battery and

inquires whether he may proceed on his state law claims. The court will construe his motion as a motion for reconsideration of the screening order.

After reviewing Alvarado's complaint again, the court finds that Alvarado does allege state law claims of intentional infliction of emotional distress and battery against Birdyshaw, Foster, and Dingman. As such, the court will take supplemental jurisdiction over those claims. *See* 28 U.S.C. §1367(c); *Bailey v. City of Chicago*, 779 F.3d 689, 696 (7th Cir. 2015).

IT IS THEREFORE ORDERED that Alvarado's motion for reconsideration (ECF No. 19) is **GRANTED**. The court takes supplemental jurisdiction over his state law claims as described above.

Dated at Milwaukee, Wisconsin this 3rd day of August, 2023.

BY THE COURT:

A handwritten signature in blue ink, reading "Nancy Joseph", written over a horizontal line.

NANCY JOSEPH

United States Magistrate Judge